

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF WEST VIRGINIA PCS)
ALLIANCE LC DBA NTELOS FOR)
DESIGNATION AS AN ELIGIBLE) CASE NO. 2006-00312
TELECOMMUNICATIONS CARRIER)
PURSUANT TO SECTION 214(E) OF THE)
TELECOMMUNICATIONS ACT)

O R D E R

On June 20, 2006, West Virginia PCS Alliance LC d/b/a NTELOS (“NTELOS”) filed an application seeking Eligible Telecommunications Carrier (“ETC”) status within the territory for which it is licensed to operate.

The Commission set a procedural schedule in this case that allowed for public comments, data requests, and requests for a hearing. No comments on the application have been filed and no request for hearing has been made.

DISCUSSION

47 U.S.C. § 254(e) provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific Federal universal service support.” Pursuant to Section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.

Section 214(e)(2) of the Act provides state commissions with the primary responsibility for performing ETC designations. The Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with

the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of Section 214(e)(1). Before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.¹

An ETC petition must contain the following: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to Section 254(c); (2) a certification that the petitioner offers or intends to offer the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services”; (3) a description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefor using media of general distribution”; and (4) if the petitioner meets the definition of a “rural telephone company” pursuant to Section 153(37) of the Act, the petitioner must identify its study area, or, if the petitioner is not a rural telephone company, it must include a detailed description of the geographic service area for which it requests an ETC designation from the Commission.

OFFERING THE SERVICES DESIGNATED FOR SUPPORT

NTELOS has demonstrated through the required certifications and related filings that it now offers, or will offer upon designation as an ETC, the services supported by the federal universal service mechanism. As noted in its petition, NTELOS is authorized to provide digital personal communication service (“PCS”) and is a common carrier as defined by 47 U.S.C. § 153(10). NTELOS certifies that it now provides or will provide

¹ 47 U.S.C. § 214(e)(2).

throughout its designated service area the services and functionalities enumerated in 47 C.F.R. § 54.101(a) of the Federal Communications Commission's ("FCC") rules. NTELOS has also certified that, in compliance with 47 C.F.R. § 54.405, it will make available and advertise Lifeline service to qualifying low-income consumers.

OFFERING THE SUPPORTED SERVICES USING A CARRIER'S OWN FACILITIES

NTELOS states that it intends to provide the supported services using its existing network infrastructure. NTELOS currently provides the service using its facilities-based digital network infrastructure and licensed PCS area in Kentucky.

The Commission finds that NTELOS has demonstrated that it satisfies the requirement of Section 214(e)(1)(A) that it offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.

ADVERTISING SUPPORTED SERVICES

NTELOS has demonstrated that it satisfies the requirement of Section 214(e)(1)(B) to advertise the availability of the supported services and the charges therefor using media of general distribution. In its petition, NTELOS states that it currently advertises the availability of its services, and will do so for each of the supported services on a regular basis, in newspapers, magazines, television, and radio in accordance with 47 C.F.R. § 54.201(d)(2).

NON-RURAL STUDY AREAS

The FCC previously has found designation of additional ETCs in areas served by non-rural telephone companies to be *per se* in the public interest based upon a demonstration that the requesting carrier complies with the statutory eligibility

obligations of Section 214(e)(1) of the Act.² The Commission finds that NTELOS's public interest showing here is sufficient based on the detailed commitments NTELOS has made to ensure that it provides high quality service throughout the non-rural service areas.

DESIGNATED SERVICE AREAS

The Commission finds that NTELOS should be certified as an ETC in the requested service areas served by the non-rural telephone company, as listed in application.

REGULATORY OVERSIGHT

In addition to its annual certification filing under Sections 54.513 and 54.314 NPCR, Inc. d/b/a Nextel Partners, the first wireless carrier to qualify as an ETC agreed to submit records and documentation on an annual basis detailing: (1) its progress towards meeting its build-out plans; (2) the number of complaints per 1,000 handsets; and (3) information detailing how many requests for service from potential customers were unfulfilled for the past year.³ The Commission finds that NTELOS should be required to file this information and make any other information as it relates to service available to the Commission.

² See, e.g., Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 39 (2000).

³ Case No. 2003-00143, Petition of NPCR, Inc. D/B/A Nextel Partners for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky, (December 16, 2004).

IT IS THEREFORE ORDERED that:

1. NTELOS shall be designated an ETC in the geographic areas requested and as listed in Appendix A, attached hereto and incorporated herein.

2. NTELOS shall offer universal support services to consumers in its service area.

3. NTELOS shall offer these services using its own facilities or a combination of its own facilities and resale of another carrier's services, including services offered by another.

4. NTELOS shall advertise the availability of and charges for these services using media of general distribution.

5. NTELOS is hereby certified as complying with the FCC's criteria, in accordance with 47 U.S.C. § 254(e), and therefore eligible to receive Universal Service Fund support for the current certification period.

6. By September 1, 2007, and each September 1 thereafter, NTELOS shall make its annual certification filing in Administrative Case No. 381⁴ and shall submit additional records as described herein.

7. A copy of this Order shall be served upon the FCC and the Universal Service Administration Company.

⁴ Administrative Case No. 381, A Certification of the Carriers Receiving Federal Universal High-Cost Support.

Done at Frankfort, Kentucky, this 24th day of October, 2006.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2006-00312 DATED October 24, 2006

Designated areas for which West Virginia PCS Alliance LC d/b/a NTELOS is
granted ETC Designation

1. Non-Rural ILEC Wire Centers

269690 Windstream Kentucky East f/k/a Kentucky ALLTEL, Inc. –
Lexington

ASLDKYXA Ashland
CTBGKYXA Catlettsburg
GNUPKYXA Greenup
GYSNKYXA Grayson
RSSLKYXB Russell
SSHRKYXA South Shore